

Board Members

David P. Yandell, Ph.D.
Chairperson
Maryann Santos de Barona, Ph.D.
Vice-Chairperson
Michael J. Rohrbaugh, Ph.D.
Secretary
Denise M. Bainton, J.D.
Wil R. Counts, Ph.D.
James J. Cox, Ed.D.
Manuel H. Delgado, Jr., J.D.
Joseph C. Donaldson
Maureen K. Lassen, Ph.D.



State of Arizona Board of Psychologist Examiners

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Staff

Maxine McCarthy
Executive Director
Marcus E. Harvey
Deputy Director
David S. Shapiro
Investigator
Shari S. Courtney
Administrative
Assistant

REGULAR SESSION MINUTES

ANNUAL MEETING Friday, October 3, 2003

1400 West Washington
Basement Conference Room, #B-1
Phoenix, AZ 85007

1. CALL TO ORDER

The regular session of the Arizona State Board of Psychologist Examiners was called to order by Chairperson Yandell at 8:04 a.m. on Friday, October 3, 2003. Two Executive Sessions were held from 8:40 a.m. to 9:05 a.m. and 11:10 a.m. to 11:13 a.m. for the purpose of obtaining confidential legal advice from the Board's attorney.

2. ROLL CALL

Board Members Present

David P. Yandell, Ph.D. - Chairperson
Maryann Santos de Barona, Ph.D. - Vice-Chairperson
Michael J. Rohrbaugh, Ph.D. - Secretary
Denise M. Bainton, J.D.
Wil R. Counts, Ph.D.
James J. Cox, Ed.D.
Manuel H. Delgado, Jr., J.D.
Joseph Donaldson
Maureen K. Lassen, Ph.D. **

* Present at 8:09 a.m.

** Present at 8:10 a.m.

Board Members Absent

None

Staff Present

Maxine McCarthy, Executive Director
Marcus Harvey, Deputy Director
David Shapiro, Investigator
Shari Courtney, Administrative Assistant

Attorney General's Office

Nancy J. Beck, J.D.
Assistant Attorney General

3. REMARKS/ANNOUNCEMENTS

Dr. Yandell announced that documentation was available for licensees who wished to receive continuing education credit for attending Board meetings. He also stated that anyone was welcome to complete a Board meeting assessment survey.

4. APPROVAL OF MINUTES

- **Regular Session – August 1, 2003**

A motion was made by Dr. Cox, seconded by Dr. Santos de Barona, and carried (6-0-3), with Mr. Delgado abstaining from the vote and Drs. Counts and Lassen not yet present, to approve the August 1, 2003 Regular Session minutes.

- **Executive Session – August 1, 2003**

A motion was made by Dr. Santos de Barona, seconded by Dr. Cox, and unanimously carried (7-0-2), with Drs. Counts and Lassen not yet present, to approve the August 1, 2003 Executive Session minutes.

- **Conference Call Regular Session – September 5, 2003**

A motion was made by Dr. Cox, seconded by Dr. Rohrbaugh, and unanimously carried (6-0-3), with Ms. Bainton abstaining from the vote and Drs. Counts and Lassen not yet present, to approve the September 5, 2003 Conference Call Regular Session minutes.

5. CALL TO THE PUBLIC

Chairperson Yandell gave the public the opportunity to address the Board at this time.

A.R., Complainant in RFI 03-25, addressed the Board regarding his complaint against Dr. Selmi.

Michael Sucher, M.D., addressed the Board in support of Janice Blair, Ph.D., regarding Complaint No. 03-13.

Kim Kalas, Ed.D., addressed the Board regarding her June 10, 2003 Letter of Concern, requesting that the Board discuss her Letter of Concern again to correct its language. Ms. Bainton and Dr. Lassen requested that this issue be placed on a future Board meeting agenda.

J.M., Complainant in RFI 03-26 addressed the Board regarding her complaint against Janet MacGregor, Ph.D.

Jack Bulkin, J.D., attorney for the Complainant in Complaint No. 03-13 against Janice Blair, Ph.D., addressed the Board.

6. INFORMAL INTERVIEW – JANICE BLAIR, Ph.D. – COMPLAINT No. 03-13

Dr. Yandell announced that it was the time and place for the informal interview of Janice Blair, Ph.D. Dr. Blair was present with her attorney, Cal Raup, J.D., who introduced themselves, as did Board members and staff. Nancy Beck, J.D., Assistant Attorney General, was also present as counsel for the Board. The court reporter was not yet present, but the proceeding was recorded. David Shapiro, Board Investigator, summarized the allegations for the Board. Dr. Blair was sworn in and Board members proceeded to interview her.

The court reporter arrived at the meeting at 10 a.m. and transcribed the remainder of the proceeding. The transcript shall serve as the official record of this proceeding. The Complainant was present with her attorney, Jack Bulkin, J.D., who made a statement to the Board. Dr. Blair and her attorney then addressed the Board and Board members proceeded to deliberate. Dr. Lassen made a motion, seconded by Dr. Cox, and unanimously carried (9-0), to move into Executive Session for the purpose of obtaining confidential legal advice from the Board's attorney.

Upon return to open session, Board members resumed deliberations. A motion was made by Dr. Counts, seconded by Mr. Donaldson, and carried (8-1), with Dr. Cox voting no, to dismiss the complaint as there was no violation of the Board's statutes or rules.

7. DISCUSSION/DECISION REGARDING INITIAL REVIEW OF REQUESTS FOR INVESTIGATION (RFI)

a) RFI 03-18 – Robbie Adler-Tapia, Ph.D.

Mr. Shapiro summarized the allegations for the Board. Elizabeth Farhart, J.D., attorney for Dr. Robbie Adler-Tapia was present and made a statement to the Board. Board members proceeded to deliberate. It was the consensus of the Board to continue this matter pending receipt of further information.

b) RFI 03-21 – Carlos Vega, Psy.D.

Mr. Shapiro summarized the allegations for the Board. Board members proceeded to deliberate. After some discussion, a motion was made by Mr. Donaldson, seconded by Dr. Lassen, and unanimously carried (9-0), to dismiss the case, as there was no violation of the Board's statutes or rules.

c) RFI 03-22 – Daniel Gaughan, Ph.D.

Mr. Shapiro summarized the allegations for the Board. The Complainant was present and made a statement to the Board, after which Board members proceeded to deliberate. A motion was made by Ms. Bainton, seconded by Dr. Counts, and unanimously carried (9-0), to direct the Assistant Attorney General to go to court to enforce the Board's subpoena. It was the consensus of the Board to continue this matter to a future meeting.

d) RFI 03-23 – John Moran, Ph.D.

Mr. Shapiro summarized the allegations for the Board. The Complainant was present and made a statement to the Board. After a break, Mr. Shapiro summarized the allegations for the Board again and Board members proceeded to deliberate. A motion was then made by Dr. Yandell, seconded by Dr. Rohrbaugh, and unanimously carried (9-0), to dismiss the case, as there was no violation of the Board's statutes or rules.

e) RFI 03-24 – Daniel Gaughan, Ph.D.

Mr. Shapiro summarized the allegations for the Board after which Board members proceeded to deliberate. A motion was made by Dr. Rohrbaugh, seconded by Dr. Santos de Barona, and unanimously carried (9-0), to direct the Assistant Attorney General to go to court to enforce the Board's subpoena. It was the consensus of the Board to continue this matter to a future meeting.

f) RFI 03-25 – Paulette Selmi, Ph.D.

Dr. Cox recused himself from this proceeding. Mr. Shapiro summarized the allegations for the Board. Dr. Paulette Selmi was present with her attorney, Sally Duncan, J.D., who made a statement to the Board and Board members proceeded to deliberate. A motion was made by Dr. Santos de Barona, seconded by Dr. Yandell, and unanimously carried (9-0-1), to dismiss this case, as there was no violation of the Board's statutes or rules.

g) RFI 03-26 – Janet MacGregor, Ph.D.

Mr. Shapiro summarized the allegations and Board members proceeded to discuss the case. It was the consensus of the Board to direct the Board's Investigator to obtain additional information and continue this matter to a future meeting.

h) RFI 03-27 – Neal Olshan, Ph.D.

This case was not discussed and remained ongoing.

i) RFI 03-28 – Valerie Hannemann, Ph.D.

Mr. Shapiro summarized the allegations and Board members proceeded to deliberate. A motion was made by Dr. Counts, seconded by Mr. Donaldson, and unanimously carried (9-0), to invite Dr. Valerie Hannemann to informal interview to address allegations that she may have violated A.R.S. § 32-2061(A)(13)(o) in that Dr. Hannemann:

- Did not set and maintain professional boundaries with A.M. in allowing multiple forms of physical contact with A.M. during the therapy sessions;
- Made statements of affection to A.M.;
- Allowed A.M. to have inappropriate and excessive after-hour contact with her;
- Conducted prolonged therapy with A.M. without a focused treatment plan; and
- Failed to inform A.M. of her new office address.

j) **RFI 03-29 – Andrea Scott, Ph.D.**

Dr. Cox recused himself from this proceeding. Mr. Shapiro summarized the allegations and Board members proceeded to discuss the case. It was the consensus of the Board to direct the Investigator to obtain additional information and continue this matter to a future meeting.

8. HEARING ON DENIAL OF LICENSE APPLICATION – Bruce Tollefson, Ph.D.

Dr. Yandell announced that it was 1:00 p.m., the time scheduled for the hearing on the Board's denial of Dr. Tollefson's license application. Dr. Yandell then noted for the record that the Board had received a telephone message from Dr. Tollefson's attorney, Holly Gieszl, J.D., stating that she was detained in a court proceeding and could not be present until 2:00 p.m.

Ms. Gieszl appeared shortly after 2:00 p.m. and it was mutually agreed between the Board and Ms. Gieszl that the hearing would be rescheduled to the December, 2003 Board meeting.

9. DISCUSSION/DECISION REGARDING PROPOSALS FROM TASK FORCE ON COMPLAINT PROCESS

Dr. Cox acknowledged the contributions of the Task Force members, the Board staff and Dr. Yandell and Ms. Bainton. It was the consensus of the Board not to run any legislation, but to possibly support legislation proposed by others. Board members proceeded to discuss some of the various proposals:

- Term limits: A motion was made by Ms. Bainton, seconded by Mr. Donaldson, and carried (7-2), with Drs. Counts and Rohrbaugh voting no, to not support a statute change on Board members' term limits.
- Qualifications: Dr. Yandell made a motion, seconded by Dr. Lassen, and unanimously carried (9-0), to not support a statute change requiring that non-academic psychology Board members be in clinical practice a minimum of 20 hours per week.
- Certain mandated recusal: A motion was made by Dr. Lassen, seconded by Ms. Bainton, and unanimously carried (9-0), that there is no need for a statute or rule change requiring Board members and consultants to recuse themselves from adjudicating or processing complaints when they are currently involved in other proceedings opposed to the licensee, since this was already being done.
- Moving from informal interview to dismissal or formal hearing: Dr. Lassen made a motion, seconded by Dr. Yandell, and unanimously carried (9-0), to table this issue to a future meeting.
- Oaths: It was proposed that both licensees and complainants should be sworn in at informal interviews and that consumers and psychologists should take an oath when they file a complaint or respond to a complaint, both orally and in writing. A motion was made by Dr. Counts, seconded by Dr. Yandell, and unanimously carried (9-0), to continue the Board's current practice.
- Due process for licensees: It was proposed that psychologists be allowed to respond to new allegations raised by the Board before a letter of concern was issued or discipline was taken.

Dr. Lassen made a motion, seconded by Dr. Counts, and unanimously carried (9-0), to continue the Board's current process, since the Board already does this.

- Complainant's role: It was proposed that complainants and licensees should be notified of the status of investigation. A motion was made by Dr. Santos de Barona, seconded by Dr. Counts, and unanimously carried (9-0), to continue the Board's current practice of responding to requests made by complainants and licensees for the status of complaints.

It was further proposed that the Board should provide copies of the psychologist's response and supporting documents and make available all investigative materials to the complainant. Dr. Yandell made a motion, seconded by Dr. Counts, and unanimously carried (9-0), to not support a statute change.

It was also proposed that complainants should be allowed to respond to the psychologist's response to the complaint, and that complaints should be allowed to supplement their complaints, if need be, prior to the conclusions of the investigation. It was the consensus of the Board to add a statement to the Board's website encouraging complainants to pull all of their information together prior to submitting their complaint, and to direct staff to make recommendations on deadlines.

- Length of time for complaint to be heard at public meeting: It was proposed that all complaints should be discussed by the Board within three months after it is filed. A motion was made by Mr. Donaldson, seconded by Dr. Yandell, and unanimously carried (9-0), to continue the Board's current practice.
- Confidentiality regarding the number of licensee's dismissed complaints: It was proposed that the Board staff should not report the number of dismissed complaints that a psychologist has received; only the number of open complaints and those resulting in discipline should be reported. Dr. Counts made a motion, seconded by Dr. Lassen, and unanimously carried (9-0), to continue the Board's current practice.

10. DISCUSSION/DECISION REGARDING REQUEST TO TERMINATE REHABILITATION ORDER

- **Sandra Brim, Ph.D.**

Mr. Donaldson stated that he knew Dr. Sandra Brim, but did not feel the need to recuse himself. Board members discussed the request of the Dr. Brim to terminate her rehabilitation order after which a motion was made by Dr. Cox, seconded by Ms. Bainton, and unanimously carried (9-0) to terminate Dr. Brim's rehabilitation stipulation and order.

11. UPDATE ON CONSENT AGREEMENT – Fritz Hardt, Ph.D. – No. 03-17

Ms. McCarthy informed the Board members that Dr. Hardt had accepted all the terms of the Board's consent agreement and that the case was concluded.

12. COUNSEL REPORTS

- **Litigation**
 - ❖ **Board v. McDonald 1CA-CV02-0518** – Nancy Beck, Assistant Attorney General, informed the Board that this case is still in the Court of Appeals, awaiting the Court's decision.
 - ❖ **Luick v. Board – LC 2003 – 000235 - 001DT** – Ms. Beck reported that Dr. Luick filed his opening brief, and that the Board has filed its answering brief. Dr. Luick will have a change to reply and then there would be oral argument on the appeal before Judge Michael Jones in the Superior Court of Maricopa County.
 - ❖ **Stapert v. Board – LC2003 – 00640 – 001DT** – Ms. Beck reported that she filed a motion to dismiss on behalf of the Board. Oral argument was heard on September 29, 2003, before Judge Michael Jones, who took the motion under advisement. The ruling

would be made in the course of business. Ms. Beck added that Dr. Stapert's application for a stay of the Board's order was denied by the Court and that his probation was still in effect.

13. REVIEW OF A.R.S. § 32-2071.01: EXEMPTIONS FROM EXAMINATION

- **Executive Session pursuant to A.R.S. § 38-431.03(A)(3)**

A motion was made by Dr. Lassen, seconded by Dr. Cox, and unanimously carried (9-0), to move into Executive Session for the purpose of obtaining confidential legal advice from the Board's attorney.

14. DISCUSSION/DECISION REGARDING FEES CHARGED BY THE BOARD PURSUANT TO A.R.S. § 32-2067

Ms. McCarthy reminded the Board that this was the annual meeting and the only time that the Board is authorized to adjust its fees. She reported that her research projected that at the end of FY2005, the Board would have a fund balance of approximately \$600,000, presuming the Board continued to spend conservatively and retained the same staffing levels. That would carry the Board through this fiscal year until June 30, 2004, and all of next year, since the Board collects revenue every other year. Ms. McCarthy noted that the Board has not raised its fees since October 2000 and recommended that the Board keep its fees at the current levels. She pointed out, however, that in the event legislation is passed in the 2004 session, that would add mandates to the Board, the Board could vote next October to raise fees. After some discussion, Dr. Counts made a motion, seconded by Mr. Donaldson, and unanimously carried (9-0), to retain the current fees. Dr. Yandell commended Ms. McCarthy as being such an efficient Executive Director that the Board's fees could be kept so low.

15. EXECUTIVE DIRECTOR'S REPORT

- **Financial** – Ms. McCarthy reported that the first quarter of the fiscal year had ended on September 30th and the Board was on target with expenditures and revenues received. Ms. McCarthy also reported that she submitted the Board's budget request to the Governor's Office on September 1, 2003. She stated that it was a zero-based budget submission, since there was no statutory mandate or demographic changes to justify a budget increase. Ms. McCarthy stated that she would not have any information on this until she testifies in January at the Legislature during the budget hearings.
- **Update on H.B. 2361** – Ms. McCarthy reported that House Bill 2361 went into effect on September 18, 2003 requiring that licensees and applicants report criminal charges to the Board, in writing, within ten days from the date a charge is filed. Specifically, an applicant or licensee must now report any misdemeanor charges that may affect patient safety and all felony charges. The Attorney General's Office has provided the boards with a list of misdemeanors which may affect patient safety. Ms. McCarthy stated that staff planned to write an article about this in the next newsletter to educate applicants and licensees about the new law.

16. LICENSING REPORT

- **New Licenses Issued** – Marcus Harvey, Deputy Director, reported that the Board had licensed the following 6 psychologists since the August meeting, one of them by credential:

3594	Mary Kendell, Ph.D.	3597	Shemira Murji, Ph.D.
3595	Deborah Lozinski, Ph.D.	3598	Michael Mellott, Ed.D.
3596	Tara Singer, Ph.D.	3599	Debra Gold, Psy.D.

Mr. Harvey reported that the Board had issued 54 new licenses this year, compared with 51 licenses issued by this time last year.

- **EPPP Results** – Mr. Harvey then reported that the following two applicants passed the Examination for Professional Practice in Psychology (EPPP) in August, with none failing:

Pass
Jennifer Strang, Ph.D.
Michael Mellott, Ed.D.

Fail
None

- **New Applications** – Finally, Mr. Harvey then reported that the Board had received 10 new applications in the past two months, which made 67 applications received this year. That compared with 63 applications received by this time last year.

17. COMMITTEE REPORTS

• APPLICATIONS REVIEW COMMITTEE

- **Requests to Sit for the EPPP** – Dr. Cox made a motion, seconded by Dr. Santos de Barona, and unanimously carried (9-0), that the following applicants, having met the requirements of A.R.S. § 32-2071 and A.A.C. R4-26-203, be approved to sit for the Examination for Profession Practice of Psychology, and for licensure upon receipt of a passing score on the Examination, and payment of the pro-rated original license fee:

- **Mary Delaney, Ph.D.**
- **Lisa Fischer, Ph.D.**
- **Jennifer Paweleck, Psy.D.**
- **Susan Qafisheh, Ph.D.**

Dr. Counts then made a motion, seconded by Dr. Lassen, and unanimously carried (8-0-1), with Dr. Cox recused, that **Ilyssa Swartout, Psy.D.**, having met the requirements of A.R.S. § 32-2071 and A.A.C. R4-26-203, be approved to sit for the Examination for Profession Practice of Psychology, and for licensure upon receipt of a passing score on the Examination, and payment of the pro-rated original license fee.

Dr. Cox then announced that the application of **Sarah Higley, Psy.D.** remained ongoing.

- **Requests for Licensure** – Dr. Cox made a motion, seconded by Dr. Lassen, and unanimously carried (9-0), that **Jay Heisler, Ph.D.**, having met the requirements of A.R.S. § 32-2071.01(A), be approved for licensure upon payment of the pro-rated original license fee.

A motion was then made by Dr. Cox, seconded by Dr. Lassen, and unanimously carried (9-0), that **Kenneth Buckle, Psy.D.**, while having met the requirements of A.R.S. § 32-2071 and A.A.C. R4-26-203, but lacking an exam score that equals or exceeds the passing score recommended by the ASPPB on the date the examination was taken, be approved to sit for the EPPP, and for licensure upon receipt of a passing score on the Examination, and payment of the pro-rated original license fee.

Dr. Cox also announced that the following applications also remained ongoing:

David Hermosillo-Romo, Ph.D.
Gerald Peterson, Ph.D.
Carlos Quezada-Gomez, Psy.D.
Ann Renard, Ph.D.

- **Requesting Licensure by Credential** – Dr. Cox announced that the application of Jeffrey Hersh, Ph.D. also remained ongoing.
- **Ratification of Reactivation of Inactive License** – Finally, Dr. Cox made a motion, seconded by Dr. Lassen, and unanimously carried (9-0), to ratify the reactivation of the

inactive license of **Laura Birholtz, Ph.D.**

18. ADJOURNMENT

There being no further business to come before the Board, a motion was made by Ms. Bainton, seconded by Dr. Counts, and unanimously carried (9-0), to adjourn the meeting at 6:23 p.m.

Prepared by:

**Marcus Harvey
Deputy Director**

Respectfully submitted,

**/s/ Michael J. Rohrbaugh, Ph.D.
Secretary**